Telemarketers: Consent to Charge an Account

This Act amends state law to require written or verbal consent be obtained by a telemarketer who has previously obtained an account number before a charge can be made to the account.

Submitted as:
Idaho
HB 144

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act may be cited as “An Act Relating to Telephone Solicitations to Require Consent to Charge a Consumer’s Account.”

Section 2. [Consent Required for Telemarketing Charges to Previously Obtained Accounts.]

(1) As used in this section:
(a) “Account” means a credit card, debit card, checking account, savings account, loan account, telephone service account, utility account or other similar account.
(b) “Account holder” means a consumer who owns an account, or a consumer who has authority to cause a charge or debit to an account.
(c) “Authorization” means an account holder providing express consent to a telemarketer or person acting on behalf of the telemarketer, to charge or cause to be charged the account holder’s account for the purchase of goods or services. Authorization is not effective until the account holder has been advised, clearly and conspicuously:
(i) That the telemarketer has the account holder’s account number;
(ii) That the telemarketer is going to charge the account holder’s account;
(iii) The specific account that will be charged;
(iv) The specific amount that the account holder’s account will be charged; and
(v) The name, address and telephone number of the person who will be charging the account holder’s account.
(d) “Charge” means a charge or debit, or an attempt to charge or debit, an account, if that account can be charged without the express written authorization of the account holder to each specific charge or debit. Charge does not include a charge or debit, or an attempt to charge or debit, a telephone service account for local or long distance telecommunications services. A charge can occur by electronic or any other means.
(e) “Goods” or “services” has the meaning given to them in [insert citation], except that for purposes of this section these terms are limited to goods or services which are normally used for personal, household or family purposes.
(f) “Previously obtained account number telemarketing call” means a telephone call in which the telemarketer attempts to obtain account holder authorization for a current or future charge without obtaining the account number from the account holder during the call; provided however, that “previously obtained account number telemarketing call” does not include the sale of securities through a telephone call, if the telemarketer is a licensed securities agent or broker in the state; provided further, that “previously obtained account number telemarketing call” does not include a telephone call initiated by an account holder during which the person receiving the telephone call attempts to sell, offer for sale, or otherwise induce the account holder to purchase goods or services. A “previously obtained account number telemarketing call” does not include a call to or from a current customer of the telemarketer to renew or extend, inquire about or
add goods or services if the customer has previously provided account information for billing purposes to the
telemarketer and the telemarketer clearly and conspicuously discloses that such renewal or extension, or
additional goods or services, will be debited to the same account.

(g) “Telemarketer” means any person who regularly engages in previously obtained account
number telemarketing call.

(2) A telemarketer shall not charge or cause a charge to an account holder’s account as a result of a
previously obtained account number telemarketing call unless the telemarketer has first obtained authorization
from the account holder for the specific charge discussed during the call.

(3) An account holder’s authorization can be in writing or given verbally. If the telemarketer uses
written authorization, the telemarketer cannot charge the account holder’s account until the account holder’s
written authorization is received by the telemarketer. If the telemarketer uses verbal authorization, either the
authorization must be audio taped by the telemarketer and the telemarketer must advise the account holder
that his or her authorization is being recorded or the account holder must disclose the last [four (4)] digits of
the account holder’s account number if the telemarketer has reasonable procedures in effect to verify that such
digits as provided by the account holder match the last four digits of the account to be charged. Authorizations must be kept and maintained for a period of [two (2)] years and must also be made available to
the account holder upon written request.

(4) (a) In the case where a telemarketer utilizes a voice response unit, whether inbound or
outbound, an account holder may give authorization by providing the last [four (4)] digits of the account
holder’s account number, an account number previously assigned to the account holder by the telemarketer,
or an alternate unique identifier which enables the telemarketer to verify or confirm the account holder’s
authorization; provided however, that the information set forth in subsection (1)(c) of this section must first
be clearly and conspicuously disclosed to the account holder.

(b) For purposes of this subsection, “voice response unit” means a device which allows a
user to provide or obtain information from a computer system using touch-tone input or speech input.

Section 3. [Severability.] [Insert severability clause.]

Section 4. [Repealer.] [Insert repealer clause.]

Section 5. [Effective Date.] [Insert effective date.]